

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Michael King	Team: Team # 4	CCRB Case #: 200305423	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 03/04/2003 9:00 PM	Location of Incident: Between Foch Street and Suptin Blvd on 116 Street I/F/O a Chinese restaurant in Queens	Precinct: 113	18 Mo. SOL 9/4/2004	EO SOL 9/4/2004	
Date/Time CV Reported Thu, 07/17/2003 10:47 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 07/17/2003 10:47 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. DT3 An officer			
2. SSA George Norris	02464	894235	113 PCT
3. POM Scott Carson	25682	915421	113 PCT
4. POM Donald Abrams	10343	921890	113 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Shannon Pearl	24161	907028	113 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SSA George Norris	Abuse: Sgt. George Norris frisked and searched § 87(2)(b)	
B.DT3 An officer	Abuse: An officer frisked and searched '§ 87(2)(b)	
C.SSA George Norris	Force: Sgt. George Norris used physical force against § 87(2)(b)	
D.POM Donald Abrams	Force: PO Donald Abrams used physical force against § 87(2)(b)	
E.POM Scott Carson	Force: PO Scott Carson used physical force against § 87(2)(b)	
F.SSA George Norris	Abuse: Sgt. George Norris strip-searched § 87(2)(b)	

Synopsis

The complainant in this case – § 87(2)(b) – filed his complaint with the CCRB by sending his complaint via mail on July 17th, 2003, nearly four months after the incident occurred on March 4th, 2003. PO Shannon Pearl of the 113th Precinct Street Narcotics Enforcement Unit (SNEU) arrested § 87(2)(b) on March 4th, 2003 at 9PM for criminal possession of marijuana in the 5th degree, aggravated unlicensed operator of a motor vehicle, unlicensed operator, defective right brake light, and resisting arrest.

[§ 87(2)(b)] [§ 87(2)(b)] alleged that Sgt. George Norris, the supervisor of the SNEU team, frisked and searched him prior to the arrest and that one of the other officers from the SNEU team that night frisked and searched a friend of [§ 87(2)(b)] named, "[§ 87(2)(b)] [§ 87(2)(b), § 87(2)(g)]".

Summary of Complaint

§ 87(2)(b) was interviewed at the CCRB on August 29th, 2003 (Enclosure 7-7c). On March 4th, 2003 at approximately 10 PM near a Chinese restaurant on Sutphin Boulevard near 116th Street in Queens, § 87(2)(b) was with a friend of his, § 87(2)(b). The two of them drove the car of § 87(2)(b) grandmother (a 1992 red Toyota Corolla) to the restaurant, as § 87(2)(b) was going to get food. § 87(2)(b) went to a grocery on the other corner while § 87(2)(b) entered the restaurant and placed an order. There were three people working in the restaurant at this time: § 87(2)(b) a short woman; another unidentified woman cooking, and an unidentified male. There were no other customers. After ordering, § 87(2)(b) saw a friend of his named § 87(2)(b) standing outside the restaurant and he went to talk to § 87(2)(b).

The two spoke for about a minute or two when an unmarked car (a Caprice or Chevy Impala) drove up. It did not have its sirens on. § 87(2)(b) referred to one of the officers as § 87(2)(b) ” whom he knew from two prior arrests. § 87(2)(b) was seated in the passenger seat and § 87(2)(b) described him as being a White male, approximately 210-20 lbs., 6’ tall, brown hair with a mustache and wearing glasses, in his late 30s. The investigation subsequently identified § 87(2)(b) as Sgt. George Norris. A Black female officer (subsequently identified as PO Shannon Pearl), whom § 87(2)(b) also knew from the previous arrests, was driving the car. There were two other officers in the back of the car. § 87(2)(b) recognized the officer sitting behind Sgt. Norris from prior incidents. He described him as a White male, approximately 6’1” with a muscular build, short blonde or brown hair and no facial hair (subsequently identified as PO Donald Abrams). The fourth officer was a White male, subsequently identified as PO Scott Carson. All of them were in plainclothes. The passenger side of the police car was closest to § 87(2)(b). Sgt. Norris said, “hey § 87(2)(b) haven’t seen you in a long time.” Sgt. Norris then said something to § 87(2)(b) though § 87(2)(b) could not remember exactly what was said. § 87(2)(b) started to turn around to go back into the restaurant when he heard the doors of the car closing. No orders were given to § 87(2)(b) or § 87(2)(b). Immediately after this, Sgt. Norris was right behind § 87(2)(b) and grabbed him by the left shoulder, turning him around to face the sergeant. Sgt. Norris proceeded to go into § 87(2)(b) jacket pockets and jeans pockets. § 87(2)(b) was turned around and he was able to see that PO Abrams had stopped § 87(2)(b). Later in his statement, though, § 87(2)(b) claimed that PO Carson had stopped § 87(2)(b) and had him up against the glass of the beauty parlor next door to the restaurant.

After being frisked and searched, § 87(2)(b) then went into the restaurant to pay for his food. Sgt. Norris did not say anything to him and § 87(2)(b) did not say anything else to him. § 87(2)(b) paid for his food and noticed that his keys were missing; he assumed that Sgt. Norris had taken them while searching him. When § 87(2)(b) turned around, he saw that PO Abrams and PO Carson had followed him into the restaurant. § 87(2)(b) then started to walk to the door to get his keys back from Sgt. Norris, but PO Abrams

put his foot in front of the door, telling § 87(2)(b) that he was under arrest. § 87(2)(b) said, "I'm not under arrest, I didn't do anything." § 87(2)(b) then attempted to go towards the door again, at which time, the officer grabbed § 87(2)(b) by the back of his neck, spun him around to the right, and forced him to the ground. § 87(2)(b) was facedown on the floor. The officer tried to bring § 87(2)(b) right arm to the upper part of his back, saying, "shut up, you're under arrest." § 87(2)(b) claimed that he was not resisting. Sgt. Norris then entered the restaurant and he placed his foot on the back of § 87(2)(b) neck. Sgt. Norris also said, "hold on, control yourself" to PO Abrams. § 87(2)(b) was then handcuffed, stood up, and taken outside to the police vehicle. § 87(2)(b) believed that Sgt. Norris was the officer who handcuffed him.

Sgt. Norris told him that he was under arrest for driving without a license. PO Abrams conducted a second frisk and search, going into § 87(2)(b) pockets, front and back as well as his jacket pockets. § 87(2)(b) claimed that he was not driving. Sgt. Norris responded, "well, this is your car right here." § 87(2)(b) claimed that his friend § 87(2)(b) was driving the car but he was not there. § 87(2)(b) was then placed in the car and he saw § 87(2)(b) exiting the store. By that time, though, he was already being taken to the station house. Sgt. Norris then asked § 87(2)(b) for information, though § 87(2)(b) told him, "I don't know anything, I don't hang out here anymore." Sgt. Norris was seated in the front and PO Abrams sat in the rear passenger seat. PO Pearl was driving and the unfamiliar officer, who had no active involvement in the arrest, sat in the rear driver's seat. § 87(2)(b) admitted that he did not have a license at this time, though he denied driving at any point that night.

Once at the 113th Precinct station house, § 87(2)(b) was not taken before the command desk. Instead, he was immediately taken to a bathroom near the cell area, where he was ordered to strip. § 87(2)(b) asked why he had to strip when Sgt. Norris told him that they had found marijuana on § 87(2)(b). § 87(2)(b) denied this, claiming that he did not "use weed," and refused to strip. The fourth officer then came back with an envelope and pulled out what appeared to be a clip of a cigarette and claimed that it was drugs. The sergeant then told § 87(2)(b) that if he did not strip, they would charge him with resisting arrest. § 87(2)(b) complied and proceeded to strip. Nothing was found. Sgt. Norris was present as was PO Pearl, PO Abrams, and PO Carson. § 87(2)(b) figured that he had nothing to hide so he complied with the strip search.

§ 87(2)(b) was placed in the cells of the 113th Precinct. Sgt. Norris continued to ask for information, telling § 87(2)(b) that he would be released if he gave information. § 87(2)(b) had nothing to give. § 87(2)(b)

§ 87(2)(b) was charged with resisting arrest, possession, and driving without a license. § 87(2)(b) denied having any drugs or weapons on him during the arrest. Nobody else was arrested. The car was vouchered and § 87(2)(b) went with his grandmother to retrieve it, though he did not know exactly when he did this.

§ 87(2)(b) indicated that he did not file the complaint until July because he felt "intimidated" by the officers and was worried that the officers might "harass" him more. However, he also felt that he should file a complaint so that something like this would not happen again. Because § 87(2)(b) was going out of town for a job over the summer, he figured that it might be his chance to file the complaint without having to worry about the officers "bothering" him.

Results of Investigation

Overview

On March 4th, 2003, Sgt. George Norris, PO Shannon Pearl, PO Scott Carson, and PO Donald Abrams were assigned to the 113th Precinct SNEU team and were on routine patrol. At approximately 9 PM, they observed § 87(2)(b) driving a vehicle with a defective right brake light and proceeded to pull him over. § 87(2)(b) was arrested for operating a motor vehicle with a suspended license, aggravated unlicensed operator, possession of marijuana, defective brake light, and resisting arrest.

NYPD Records

According to § 87(2)(b) arrest report (Enclosure 9h-9i), PO Shannon Pearl of the 113th Precinct arrested § 87(2)(b) for resisting arrest, possession of marijuana in the fifth degree, aggravated unlicensed operator, defective brake light, and unlicensed operator. No force was indicated as being used and narcotics were vouchered, L701314 (Enclosure 9m) as well as the car (Enclosure 9k).

A command log entry (Enclosure 9g) for § 87(2)(b) was entered at 9:15 PM, approximately fifteen minutes after the arrest. The roll call indicated that PO Pearl was assigned to the 113th Precinct SNEU team, which was supervised by Sgt. George Norris with PO Scott Carson and PO Donald Abrams. There was a Sgt. John Palmieri assigned to the Precinct's Tracer Unit.

Attempts to locate Witnesses

Upon filing this complaint, § 87(2)(b) provided a cell phone for § 87(2)(b) though he did not provide an address. However, at the time of his interview, § 87(2)(b) indicated that he did not believe that § 87(2)(b) wished to be interviewed regarding this incident. Attempts to reach § 87(2)(b) via the cell phone number § 87(2)(b) were all negative, as a message indicated that the cell phone was not in service.

On October 2nd, 2003, a canvass was conducted of the Chinese Restaurant. A worker who identified herself as § 87(2)(b) refused to provide a statement, directing the undersigned to a co-worker who identified himself as § 87(2)(b). § 87(2)(b) refused to provide a recorded statement as well as his full name, though he stated off the record that an individual was arrested inside the restaurant by being placed on the floor and handcuffed.

Officer Statements

PO Donald Abrams, PO Scott Carson, and Sgt. George Norris were interviewed at the CCRB on November 28th, 2003 (Enclosures 8-8c, 8d-8g, and 8h-8l, respectively). PO Shannon Pearl was interviewed at the CCRB on December 11th, 2003 (Enclosure 8m-8p). Their testimonies were consistent and are summarized as follows.

According to the officer testimony, PO Pearl was driving the black, unmarked, 4-door Chevy Impala (auto 709), Sgt. Norris was seated in the front passenger seat, PO Carson sat behind PO Pearl, and PO Abrams sat behind Sgt. Norris. While on patrol on 116th Street between Foch Street and Sutphin Boulevard, they observed a car driving with a defective right brake light and proceeded to pull the vehicle over. The car pulled into a bus stop and the driver of the vehicle exited the car and walked into a Chinese Restaurant, leaving the car running. No other passengers exited the vehicle. Sgt. Norris recognized the driver as § 87(2)(b) a former confidential informant whom he had arrested twice before this incident. Sgt. Norris exited the vehicle and called over to § 87(2)(b) to get back into the car, though § 87(2)(b) responded by saying that he was going to get food and proceeded to walk into a Chinese Restaurant. PO Abrams and PO Carson exited the vehicle and walked into the Chinese Restaurant. PO Pearl and Sgt. Norris also exited their vehicle and walked to § 87(2)(b) vehicle in order to make sure that nobody else was in the vehicle. All of the officers denied that Sgt. Norris stopped, frisked, and searched § 87(2)(b) before he entered the restaurant, stating that he did not have the opportunity to do so. All of them also denied that there were any other individuals present on the scene, specifically § 87(2)(b) friend, § 87(2)(b) whom Sgt. Norris and PO Pearl knew from prior arrests.

PO Pearl approached on the driver's side and Sgt. Norris approached on the passenger side. The two glanced into the vehicle without breaching the doorway in order to make sure there were no other passengers, which there were not. PO Pearl and Sgt. Norris then walked back to their vehicle to run § 87(2)(b) license plate to make sure the car was not stolen. It came back as listed to a female, though none of the officers could recall the name at the time of their interviews. Sgt. Norris then ran § 87(2)(b) name through the Mobile Digital Terminal, which found that § 87(2)(b) license was suspended.

Sgt. Norris then radioed to PO Abrams and PO Carson that § 87(2)(b) license was suspended and he was to be arrested. According to PO Abrams and PO Carson, the officers told § 87(2)(b) that they needed to speak to him, though § 87(2)(b) refused to speak and proceeded to order food. PO Abrams recalled asking § 87(2)(b) why he exited the vehicle and § 87(2)(b) responded that he was not driving the vehicle. Both of the officers claimed that § 87(2)(b) smelled like he had been smoking marijuana. After receiving Sgt. Norris' transmission, they told § 87(2)(b) that he was to be arrested, though he refused to do so and attempted to walk out of the restaurant. PO Carson grabbed § 87(2)(b) by his shoulder and attempted to place his hand behind his back, though § 87(2)(b) refused to do so, struggling with the officer's grasp. PO Abrams also attempted to grab § 87(2)(b) other arm when the three of them fell to the ground. PO Carson did not know what caused this, though he believed that his legs became entangled with § 87(2)(b) as he continued to try to get to the door to leave the restaurant. Once on the ground, the two officers continued to struggle with § 87(2)(b) arms but eventually handcuffed him. PO Carson estimated that the entire struggle lasted no more than 20-30 seconds and that nobody was injured. § 87(2)(b) was then lifted from the ground and escorted out of the restaurant. PO Pearl and Sgt. Norris were not involved in the

handcuffing and did not enter the restaurant. According to PO Abrams, he and PO Carson searched § 87(2)(b) inside of the restaurant after he was handcuffed in order to make sure that he did not have any weapons, which he did not.

After § 87(2)(b) was escorted to the officers' vehicle, PO Pearl and Sgt. Norris returned to § 87(2)(b) vehicle, where PO Pearl observed a lit marijuana cigarette in the ashtray. She confiscated the marijuana cigarette and vouchered it. § 87(2)(b) was then transported to the station house and one of the officers drove § 87(2)(b) vehicle to the station house, though none of the officers were entirely sure who drove the vehicle. At the station house, § 87(2)(b) was brought before the command desk and then Sgt. Norris conducted a strip search in the bathroom near the holding cell, though nothing was found. § 87(2)(b) initially refused to comply, though when Sgt. Norris showed the marijuana blunt to § 87(2)(b) he complied with the search. PO Pearl was assigned the arrest and processed the arrest while Sgt. Norris, PO Carson, and PO Abrams resumed patrol. According to Sgt. Norris and PO Pearl, § 87(2)(b) was upset about the arrest and claimed that he should not have been arrested due to the information he had provided to them on previous incidents.

§ 87(2)(b), § 87(2)(a) 160.50

Conclusions and Recommendations

The facts of this case are the following. Sgt. Norris, PO Pearl, PO Abrams, and PO Carson were on patrol as a SNEU team when they observed § 87(2)(b) operating a vehicle with a defective right brake light. They proceeded to pull it over and § 87(2)(b) was subsequently arrested for operating a vehicle with a suspended license. He was also charged with resisting arrest and possession of marijuana. The physical apprehension occurred inside of a Chinese restaurant located on 116th Street between Foch and Sutphin in Queens. All parties agreed that § 87(2)(b) attempted to leave the restaurant after PO Abrams and PO Carson informed him that he was to be arrested. All parties also agree that § 87(2)(b) and the officers ended up on the floor of the restaurant and that § 87(2)(b) was handcuffed without injury. § 87(2)(b) vehicle, which belongs to his grandmother, was vouchered and driven to the station house. Although § 87(2)(b) claimed that he was never brought before the command desk, all of the officers testified as such and there is a command log entry indicating that he was brought into the station house at 9:15 PM, fifteen minutes after the arrest. A strip search was conducted inside the holding cell area bathroom, as is protocol for arrests involving narcotics. Both Sgt. Norris and § 87(2)(b) agreed that § 87(2)(b) refused to be strip searched until he was shown the narcotics uncovered; once he was shown the marijuana cigarette, § 87(2)(b) complied. On April 29th, 2003, § 87(2)(b) pled guilty to disorderly conduct, sentenced to serve five days of community service, fined \$150, and conditionally discharged until April 24th, 2004.

The parties did not agree on the following. § 87(2)(b) claimed that his friend, § 87(2)(b) was also with him at the Chinese restaurant when the officers pulled up. All of the officers denied that there were any other individuals with § 87(2)(b) either in the car or outside of it. § 87(2)(b) claimed that Sgt. Norris stopped him before he entered the restaurant and frisked and searched him by going into his pockets. Sgt. Norris and all of the officers denied that any of the officers stopped, frisked, and searched § 87(2)(b) before he entered the restaurant. § 87(2)(b) initially claimed that PO Abrams frisked and searched § 87(2)(b) though he later changed his testimony, claiming that PO Carson did so. Again, all of the officers denied frisking and searching anyone besides § 87(2)(b) after he was handcuffed. Regarding the physical force used, § 87(2)(b) claimed that he was grabbed behind his neck and "thrown" to the ground. While on the ground, he claimed that Sgt. Norris placed his foot on the back of § 87(2)(b) neck. Both PO Abrams and PO Carson denied grabbing § 87(2)(b) by the back of his neck and denied throwing § 87(2)(b) to the ground. All of the officers denied that Sgt. Norris was in any way involved in the physical apprehension of § 87(2)(b).

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

[REDACTED]

§ 87(2)(b), § 87(2)(g)

[REDACTED]

Allegation A. Sgt. George Norris frisked and searched § 87(2)(b) in violation of Patrol Guide Procedure 208-05.

Allegation B. An officer frisked and searched '§ 87(2)(b) in violation of Patrol Guide Procedure 208-05.

§ 87(2)(b) claimed that Sgt. Norris frisked and searched him before he entered the Chinese Restaurant. No other testimony corroborated this allegation. All of the officers denied that any of the officers frisked and searched § 87(2)(b) before he entered the restaurant. § 87(2)(b), § 87(2)(g)

If § 87(2)(b) were to be believed, then Sgt. Norris would need probable cause to search § 87(2)(b). Although driving with a defective brake light is a misdemeanor traffic infraction, it is reasonable to conclude that it does not necessitate an arrest unless otherwise in conjunction with other criminal activity.

§ 87(2)(b), § 87(2)(g)

[REDACTED]

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b) initially did not report any incident involving his friend, “§ 87(2)(b). However, in his formal statement, he claimed that an officer frisked and searched § 87(2)(b) while Sgt. Norris was allegedly frisking § 87(2)(b). First, § 87(2)(b) claimed that a White male, approximately 6’1” with a muscular build, short blonde or brown hair and no facial hair (PO Abrams) conducted the frisk of § 87(2)(b) though he then changed his statement later in the interview, claiming that the fourth officer in the vehicle, whom he did not recognize and could only describe as a White male, conducted the frisk/search of § 87(2)(b). § 87(2)(b) indicated that he did not wish that § 87(2)(b) be involved in the investigation and did not offer any information regarding him other than a cell phone number. The cell phone number was never activated and § 87(2)(b) was never reached. All of the officers denied that any other individuals were involved in this incident other than § 87(2)(b). Moreover, Sgt. Norris and PO Pearl indicated that they knew a § 87(2)(b) who was friends with § 87(2)(b) whom they had previously arrested also, though they denied that he was present. § 87(2)(b), § 87(2)(g)

Allegation C. Sgt. George Norris used physical force against § 87(2)(b) in violation of Patrol Guide Procedure 203-11.

§ 87(2)(b) alleged that Sgt. Norris entered the restaurant after he was forced to the ground and that the sergeant placed his foot upon the back of § 87(2)(b) neck and then handcuffed him. All of the officers denied that Sgt. Norris was involved in the physical apprehension of § 87(2)(b) stating instead that PO Abrams and PO Carson were the only officers involved in the apprehension. § 87(2)(b), § 87(2)(g)

Allegation D. PO Donald Abrams used physical force against § 87(2)(b) in violation of Patrol Guide Procedure 203-11.

Allegation E. PO Scott Carson used physical force against § 87(2)(b) in violation on Patrol Guide Procedure 203-11.

§ 87(2)(b) claimed that two White males followed him into the restaurant and proceeded to arrest him. According to § 87(2)(b) account, he started to walk towards the door of the restaurant to leave when one of the officers grabbed him by the back of his neck, spun him around to the right, and forced him facedown to the ground. The officer tried to bring § 87(2)(b) right arm to the upper part of his back. § 87(2)(b) denied that he was resisting. He then claimed that Sgt. Norris entered the restaurant and placed his foot on the back of § 87(2)(b) neck, after which the sergeant handcuffed § 87(2)(b). Once he was handcuffed, there was no additional force. All of the officers denied that Sgt. Norris partook of the physical apprehension of § 87(2)(b). PO Carson indicated that he grabbed § 87(2)(b) by one of his shoulders and attempted to place it behind his back, though § 87(2)(b) resisted. PO Abrams then attempted to grab the other arm when the three of them fell to the ground. Once on the ground, § 87(2)(b) continued to struggle, though the two officers were able to handcuff § 87(2)(b) without injury to any of the parties. § 87(2)(b), § 87(2)(g)

Patrol Guide Procedure 203-11 directs officers to use the “minimum necessary force” when effecting an arrest. Additionally, New York State Penal Laws 35.27 and 35.30 justify the use of physical force in resisting arrest as well as to prevent escape (Enclosure 1). It should be noted that there were no injuries involved in this incident. Even the force that he described appears to be minimal and without malice, particularly in light of § 87(2)(b) admission that he refused to be handcuffed and attempted to exit the restaurant. This is equally true of the force described by the two officers involved. § 87(2)(g)

§ 87(2)(g)

Allegation F. Sgt. George Norris strip-searched § 87(2)(b) in violation of Patrol Guide Procedure 208-05.

There is no question that Sgt. Norris conducted a strip search of § 87(2)(b) at the 113th Precinct station house. According to Patrol Guide Procedure 208-05, a strip search “will be utilized when the arresting officer reasonably suspects that weapons, contraband or evidence may be concealed upon the person or in the clothing in such a manner that they may not be discovered by the previous search methods.” Additionally, the nature of the crime committed (possession of marijuana) and the arrest circumstances are also factors that determine whether a strip search is necessary. § 87(2)(b), § 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: